STATEMENT OF PRACTICE

SP-CAT/3/90

SECTION 60 POLICIES

1. Finance Act, 1985 - Summary of the Original Relief

1.1 Section 60, Finance Act, 1985, grants a concession in relation to the proceeds of life insurance policies which would otherwise be liable to inheritance tax on the death of the insured person. The section provides that the proceeds of any qualifying insurance policy taken out under this section by an insured person on his life will be exempt from inheritance tax insofar as such proceeds are used to pay the inheritance tax arising on the insured person's death, or within a year of his death, under dispositions made by him (for example, under his will). Any part of the proceeds not so used are liable to inheritance tax.

Example

1.2 Andrew Byrne dies in 1989, leaving a net estate of £75,000, not including £6,000, the proceeds of a section 60 policy payable to his personal representatives. By his will he bequeaths the proceeds of the policy to his executor on trust to pay the relevant tax (within the meaning of section 60) arising on his death, any balance of the proceeds to fall into his residuary estate. He bequeaths his residuary estate equally absolutely to his son, Dermot Byrne, to Dermot's wife Evelyn and to Dermot's son Robert.

In the first instance the inheritance tax is assessed ignoring the proceeds of the policy. Dermot, Evelyn and Robert each receive £25,000 and -

Dermot's tax on £25,000 (threshold amount £150,000) is	Nil
Evelyn's tax on £25,000 (threshold amount £ 10,000) is	£3,500
Robert's tax on £25,000 (threshold amount £ 20,000) is	£1,000

Evelyn and Robert receive legacies of £3,500 and £1,000 respectively from the proceeds of the policy to pay their tax. Those amounts are not liable to inheritance tax. The balance (£1,500) of the proceeds of the policy goes equally to Dermot, Evelyn and Robert and is taxed as an inheritance of £500 taken by each of them on the day after Andrew's death.

Dermot's tax on £500 is	Nil
Evelyn's tax on £500 is	£150
Robert's tax on £500 is	£100

Criteria for Revenue Approval

1.3 Although the section 60 policy must be in a form approved by the Revenue Commissioners, it is not necessary that they should see each policy when it is issued. However, the following points should be noted.

1.3.1 The policy must be effected by an insured on his own life and specify that it has been effected under section 60, Finance Act, 1985.

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SECTION 60 POLICIES

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1.3.2 The policy must have a ratio of sum assured to annual premium of at least 8:1, or in the case of a policy with a premium loading for medical or other reasons, a ratio of at least 6:1.

1.3.3 While section 60 provides that annual premiums are to be paid, the section will apply to bona fide policies where the premiums are paid, for example, quarterly or monthly, provided that the latter amounts are derivatives of an annual premium, and that the ratios at 1.3.2 above are observed.

1.3.4 Premiums payable under a section 60 policy do not qualify for income tax relief and accordingly Life Assurance Premium Certificates should not be issued in respect of such policies.

1.3.5 An existing policy cannot be converted to a section 60 policy.

1.3.6 A section 60 policy may be converted to an ordinary life policy and shall qualify for income tax relief (subject to the usual restrictions) from the date of conversion. On conversion, a Life Assurance Premium Certificate may be issued indicating that the policy has been converted from a section 60 policy, and the date of conversion.

1.3.7 The policy must be a whole of life policy, a whole of life policy with premiums ceasing at a specified age, a term assurance policy or any other policy approved by the Revenue Commissioners. The policy should be of the normal standard type and where appropriate may include clauses relating to early encashment, paid up values and other usual policy conditions.

1.3.8 The policy may be a "contingent life" policy, that is, a policy in which the proceeds are payable on the death of an insured person provided a named life has predeceased him or her, for example, a policy effected by a wife, the proceeds of which are payable on her death but only provided her husband has predeceased her.

1.3.9 A policy will be a qualifying insurance policy if it is effected by an "employee" of a company on his own life and -

(a) the premiums, though paid by the "employer", are a benefit in kind chargeable to income tax in the hands of the "employee", and included in his income tax return, and

(b) no deduction is claimed for income tax purposes by the "employee" in respect of those premiums.

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SECTION 60 POLICIES

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Intention should be specified

1.4 The insured person should normally specify how the proceeds of the policy are to be dealt with if his wishes in this regard are to be met. For example, a person dies and by will bequeaths his entire estate, including the proceeds of a section 60 policy payable to his personal representatives, to his son absolutely. That deceased person is also a joint-tenant with his brother of a house, a half-share of which passes by survivorship to that brother on the death. The son and brother are liable to inheritance tax on their inheritances but the proceeds of the policy, owned by the son under the terms of his father's will, are not available to pay the brother's tax. If it was the deceased person's intention that the proceeds of the policy should be used to pay all "relevant tax" on his death, he should have provided accordingly in his will (see the Example in 1.2 above).

1.5 The distribution of the proceeds of the policy might also be arranged by issuing the policy under a trust with an appropriate trust instrument specifying whether all or merely some of the successors on the insured person's death are to benefit from the proceeds of the policy.

1.6 Whether the distribution of the proceeds of a policy is dealt with by will or by trust, it would be prudent also to indicate the proportions in which the proceeds are to be distributed in case such proceeds, on the insured person's death, are found to be insufficient to pay all "relevant tax".

2. Finance Act, 1989 - Joint Lives and Survivor Policies

2.1 Section 60, Finance Act, 1985, originally applied only to policies effected on a single life. However, section 84, Finance Act, 1989, extended the provisions of section 60 to policies where -

(a) the insured is an individual and the spouse of that individual;

(b) annual premiums are paid by either or both of them during their joint lives, and by the survivor during the life of the survivor; and

(c) the proceeds of the policy are payable on the death of such survivor, or on the simultaneous deaths of both such spouses.

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SECTION 60 POLICIES

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Example

2.2 Michael Moran and his wife, Patricia, effect a policy under the provisions of section 60, the proceeds to be payable on the death of the survivor of them to the personal representative of that survivor. Michael pays all the premiums during his lifetime.

Michael dies and by will bequeaths his entire estate to Patricia absolutely. No inheritance tax is payable on this inheritance between spouses (section 59, Finance Act, 1985). The policy does not mature on Michael's death and, from his death, Patricia pays the premiums.

On Patricia's death the policy matures and the proceeds are available to pay any "relevant tax" arising on her death under dispositions made by her.

Caution

2.3 If, in the Example in 2.2 above, inheritance tax did arise on the death of Michael under a disposition made by him, the proceeds of the section 60 policy would not be available to pay that tax.

3. Finance Act, 1990 - Extension of the Relief

3.1 Section 130, Finance Act, 1990, further extended the provisions of section 60 in respect of the -

(a) "joint lives and survivor" policies in the names of two spouses referred to in 2.1 above, and

(b) "contingent life" policies referred to in 1.3.8 above, where the policy is effected by an individual but the proceeds are payable on that individual's death only if the individual survives his or her spouse.

The effect of this new section may be illustrated by two Examples.

Example

3.2 Brendan Fagan bequeaths his estate to his wife, Mary, for life with remainder to their son, William, absolutely. No inheritance tax is payable on Brendan's death in respect of Mary's inheritance (section 59, Finance Act, 1985).

Heretofore, a "joint lives and survivor" or a "contingent life" policy payable on Mary's death would not have been available to pay the inheritance tax payable by William on her death, the reason being that William takes his inheritance under a disposition made by Brendan and not by Mary. However, section 130 now provides that the proceeds of such a policy, payable on Mary's death, are available to pay William's tax.

Example

3.3 Edward Hanrahan bequeaths his estate absolutely to his wife, Joan, but should she not survive him by 30 days, he bequeaths his estate absolutely to his son, Vincent. Edward and Joan are involved in a car accident. Edward dies immediately and Joan dies 10 days later.

Vincent takes Edward's estate absolutely under the terms of the will. Heretofore, a "joint lives and survivor" or a "contingent life" policy payable on Joan's death would not have been available to pay the inheritance tax payable by Vincent, the reason again being that Vincent takes his inheritance under a disposition made by Edward and not by Joan. Section 130 now provides that the proceeds of such a policy, payable on Joan's death, are available to pay Vincent's tax.

Reminder

3.4 The Examples in 3.2 and 3.3 above show that the proceeds of a section 60 policy may be payable on the death of a surviving spouse, but that the inheritance tax which may now be paid with the proceeds may arise under dispositions made by that spouse and by the predeceased spouse. This highlights how necessary it is that the will of the surviving spouse, or a trust instrument, whichever method is chosen, should specify how the proceeds of the policy are to be dealt with (see 1.4 to 1.6 above).

October, 1990.